



(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750-AH75

Defense Federal Acquisition Regulation Supplement: New

Qualifying Country—Czech Republic (DFARS Case 2012-D043)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add the Czech Republic as a qualifying country.

DATES: Effective date: [Insert date of publication in the FEDERAL REGISTER.

ADDRESSES: FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571-372-6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to add the Czech Republic as a qualifying country. On April 18, 2012, the Secretary of Defense signed a new reciprocal defense procurement agreement with the Czech Minister of Defense. The agreement removes discriminatory barriers to procurements of supplies and services produced by

industrial enterprises of the other country to the extent mutually beneficial and consistent with national laws, regulations, policies, and international obligations. The agreement does not cover construction or construction material.

II. Publication of this final rule for public comment is not required by statute

"Publication of proposed regulations", 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment. Adding the Czech Republic to the list of 21 other countries that have similar reciprocal defense procurement agreements with DoD does not alter the substantive meaning of the basic DoD policy on contracting with qualifying country sources. Accordingly, the change does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, does not have a significant effect beyond the internal operating procedures of DoD, and will

not have a significant cost or administrative impact on contractors or offerors.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provisions at DFARS 252.225-7000,

252.225-7020, currently approved under OMB Control Number 0704-0229, titled DFARS Part 225, Foreign Acquisition, and Associated Clauses, in the amount of 57,235 hours, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because it merely shifts the category under which items from the Czech Republic must be listed.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Ynette R. Shelkin

Editor, Defense Acquisition Regulations System

Therefore, 48 CFR parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.003 [Amended]

2. Amend section 225.003 in the definition "Qualifying country", paragraph (10), by adding "Czech Republic" in alphabetical order.

225.872-1 [Amended]

3. Amend section 225.872-1, paragraph (a), by adding "Czech Republic" in alphabetical order.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212-7001 [Amended]

4. Amend section 252.212-7001 in paragraph (b)(12) by removing "(MAY 2012)" and adding "(JUN 2012)" in its place.

252.225-7001 [Amended]

5. Amend section 252.225-7001, paragraph (a), definition of "Qualifying country," by adding "Czech Republic" in alphabetical order.

6. Amend section 252.225-7002 by removing the clause date "(APR 2003)" and adding "(JUN 2012)" in its place and revising paragraph (a) to read as follows:

252.225-7002 Qualifying Country Sources as Subcontractors.

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(a) *Definition.* Qualifying country, as used in this clause, means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia

Austria

Belgium

Canada

Czech Republic

Denmark

Egypt

Finland

France

Germany

Greece

Israel

Italy

Luxembourg

Netherlands

Norway

Portugal

Spain

Sweden

Switzerland

Turkey

United Kingdom of Great Britain and Northern Ireland.

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252.225-7012 [Amended]

7. Amend section 252.225-7012 in paragraph (a)(3) by adding "Czech Republic" in alphabetical order.

8. Amend section 252.225-7017 by removing the clause date "(MAY 2012)" and adding "(JUN 2012)" in its place and by revising the definition of "Qualifying country," in paragraph (a) to read as follows:

252.225-7017 Photovoltaic Devices.

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(a) * * *

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia

Austria

Belgium

Canada

Czech Republic

Denmark

Egypt

Finland

France

Germany

Greece

Israel

Italy

Luxembourg

Netherlands

Norway

Portugal

Spain

Sweden

Switzerland

Turkey

United Kingdom of Great Britain and Northern Ireland.

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252.225-7021 [Amended]

9. Amend section 252.225-7021, paragraph (a), definition of "Qualifying country," by adding "Czech Republic" in alphabetical order.

10. Amend section 252.225-7036 by revising the definition of "Qualifying country," in paragraph (a) to read as follows:

252.225-7036 Buy American—Free Trade Agreements--Balance of Payments Program.

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(a) * * *

"Qualifying country" means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia

Austria

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Greece

Israel

Italy

Luxembourg

Netherlands

Norway

Portugal

Spain

Sweden

Switzerland

Turkey

United Kingdom of Great Britain and Northern Ireland.

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